

04.04.2023
Item No.14
Court No.6.
S. De

**M.A.T. 230 of 2023
with
I.A. No. CAN 1 of 2023**

**Amiyo Guria.
Vs
The State of West Bengal & Ors.**

Mr. Syed Arif Ahmed,
...for the appellant.
Mr. Santanu Kr. Mitra,
Mr. Subhabrata Das,
...for the State.

Supplementary affidavit filed on behalf of the appellant be kept with the records.

By consent of the parties the appeal and the connected application are taken up together for hearing.

A judgment and order dated January 11, 2023 whereby the appellant's writ petition being WPA 19747 of 2022 was dismissed, is the subject matter of challenge in this appeal.

The appellant/writ petitioner approached the learned Single Judge essentially claiming compensation for a plot of land which belonged to his mother. The learned Judge noted that the land in question was gifted by the appellant's mother to the Sabhapati, Kharagpur-II Panchayat Samiti and Nirbha Adhikarik Kharagpur-II Panchayat Samiti by way of a

registered deed of gift dated March 19, 1990. Later, the appellant's mother approached the Sabhapati, Kharagpur-II Panchayat Samiti for compensation. Her request not having been acceded to, she filed W.P. No. 2150(W) of 2010. A learned Single Judge directed the Sabhapati of the said Panchayat Samiti to afford an opportunity of hearing to the appellant's mother and pass a reasoned order. Such a reasoned order was passed on August 3, 2011. Taking a sympathetic view, the Sabhapati of the said Panchayat Samiti came to a decision that alternative land could be given to the appellant's mother but she was not entitled to any compensation or employment as per the applicable Rules.

The present appellant approached the learned Single Judge in this round of litigation eleven years after such decision was taken by the Sabhapati of the Kharagpur-II, Panchayat Samiti.

The learned Judge observed that not only that the writ petitioner is guilty of undue delay and laches, he is only one of the five legal heirs of late Tulsi Guria who had gifted her land to the Panchayat. The other legal heirs have not been impleaded as parties in the writ petition. The gift was made by the appellant's mother unconditionally by way of a registered deed. In 2011 on sympathetic consideration, the Sabhapati of Kharagpur-II, Panchayat Samiti decided to allot

alternative land to the appellant's mother. Such offer was not accepted by the appellant's mother or after her demise by the appellant or other legal heirs of late Tulsi Guria. The learned Judge concluded that the writ petition cannot be entertained thirty years after the appellant's mother gifted the land in question unconditionally by way of a registered deed. The learned Judge dismissed the writ petition. Hence, this appeal.

Learned advocate appearing for the appellant/writ petitioner says that the appellant's mother is still alive. The learned Single Judge has erroneously described the appellant's mother as "late Tulsi Guria". He further says that no action could be taken from the end of the appellant or his mother on the basis of the decision of the Sabhapati of Kharagpur-II, Panchayat Samiti to give alternative plot of land to the appellant's mother due to ignorance. Neither the appellant nor his mother are literate persons. Hence, the case of the appellant may be considered favourably.

We have not called upon the respondents to make submission.

We are in complete agreement with the reasoning and conclusion reached by the learned Single Judge. From the documents that were before the learned Single Judge, it was clear that an

unconditional gift of the land in question was made by the appellant's mother to the Panchayat Samiti in question way back in the year 1990. In 2011 an alternative plot of land was offered to the appellant's mother. She did not accept that. Today, i.e. more than thirty-two years after the gift and more than eleven years after the Sabhapati, Kharagpur-II, Panchayat Samiti offered to give an alternative plot of land to the appellant's mother, any claim on account of compensation cannot be entertained. There was nothing on record before the learned Single Judge to show that there was any promise or assurance meted out by the State respondents to the appellant's mother or to the appellant is that in consideration of the gift of the land in question, the appellant's mother or any of her children would be given a job or monetary compensation.

Learned advocate for the appellant says that after disposal of the writ application, his client has discovered certain documents which clearly support his client's claim for compensation or alternative plot of land. Admittedly, such documents were not before the learned Single Judge and hence, we are not inclined to consider such documents. However, if the appellant is entitled in law to approach the learned Single Judge with such documents for reconsideration of his case, dismissal of this appeal per se will not

preclude him from doing so. However, this order will not be construed as granting leave or permission to the appellant to approach the learned Single Judge for reconsideration of his case.

We find no infirmity in the order under appeal as would warrant our interference. Accordingly, the appeal being MAT 230 of 2023 is dismissed along with the application being I.A. No. CAN 1 of 2023, treating the same as on day's list.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Prasenjit Biswas, J.)

(Arijit Banerjee, J.)